

## **DRAFT**

### **Governor's Blue Ribbon Water Task Force**

#### **Corrected Meeting Notes**

**January 25-26, 2006**

**Santa Fe, NM**

**Attendees:** Larry Blair, Conci Bokum, Frank Chaves, Wayne Cunningham, John D'Antonio, Kyle Harwood, Lisa Henne, David Hughes, Debbie Hughes, Bill Hume, Sarah Kotchian, John Leeper, Elmer Lincoln, Estevan Lopez, Paul Paryski, Hoyt Pattison, Elmer Salazar, Jack Westman

#### **Updates From the Regions**

Steve Hernandez reported that the space port is getting significant attention and is moving forward, but there is no concrete plan for how to get water out there. The Elephant Butte Irrigation District (EBID) is considering building a treatment plan to convert water from agricultural use to M&I use. The water would have to be transported approximately 40 miles, and several different standards for water quality would have to be met – some would have to be very clean. Some reuse would also be expected.

Steve also mentioned that the metering guidelines released by the OSE have been met with concern because the type of meter that is being required is an analog device that cannot provide real-time data. The EBID is requesting that the state engineer require a digital meter that can be linked to telemetry and serve as a management tool, but this request has not been agreed to by the OSE. The EBID believes that having real-time data would allow it to better respond to different situations. Furthermore, the analog meters are less accurate and easier to falsify than digital meters.

Steve reported that the domestic well regulations announcement received a lot of publicity because the EBID believes that it will probably be one of those management areas. In response to a question from Jack Westman, Steve stated that a single family on a domestic well in management area would have to monitor the well. Steve added that developers can only get 5 permits at a time for a new subdivision, but each well could serve more than one family.

Kyle Harwood and Jack Westman commented that they know of cases in which people are renewing well permits but not drilling the wells.

Steve concluded by stating that the new compact commissioner for Texas is planning to come to an EBID board meeting to introduce himself to the board. The new commissioner is lawyer from El Paso and has no water experience.

Wayne Cunningham reported that representatives from the City of Tucumcari and Quay County met with the ISC in Clovis to discuss the Ute Lake branch. Undeveloped lots on Ute Lake are being sold for \$300-400K. Wayne mentioned that the ISC is concerned about the impacts of the golf course and the influx of motor boats on water quality, and added that the people who would receive water if the Ute pipeline were installed are also concerned about the quality of the water. Wayne also commented that there had been a good meeting with developers, engineers, etc., and that things seem to be moving in the right direction. The developers for the Ute Lake have done this type of development in California, but never in New Mexico, and are unfamiliar with the processes that are particular to New Mexico.

Debbie Hughes passed around pictures of riparian and watershed restoration that she has been involved with. There is an \$8M bill this session to continue restoration work anywhere in the state, plus \$2M for upper watershed work. Debbie also reported that in the Lower Pecos from Carlsbad/Loving and to the south, the BLM recently did a prescribed fire on a project that included private, state, and BLM land. Debbie stated that she has been engaged in many collaborative projects with agencies, including the NMED, the Department of Agriculture, the Energy, Minerals and Natural Resources Department, and the Department of Indian Affairs, and plans to do more. Jack Westman asked whether there had been any kind of measurement of the effect of phreatophyte removal. Debbie replied that they have been looking at USGS station data, but that while the additional water last year has helped with natural regeneration, it has also made it difficult to evaluate whether there is more water in the system. Most of the evidence is anecdotal, for example a stream that had been dry for 50 years started running again salt cedar was removed. Debbie stated that she has been doing a lot of monitoring with federal agencies, but it is difficult to get data that are easy to interpret.

Dave Hughes reported that his region is still very dry, and watershed groups have been getting more active.

Kyle Harwood reported that the implementation schedule for the Aamodt settlement is being filed with the federal court this week. Kyle added Northern New Mexico communities have been getting involved in the Aamodt settlement issues related to water rights transfers.

Kyle also reported that the City of Santa Fe has been working with three federal agencies on getting the environmental review approved for the Buckman Direct Diversion. The city has also been making progress in getting the San Juan Chama contract completed, and is expecting to get an Environmental Assessment out next month.

Kyle mentioned that the City of Santa Fe has been working with developers on the water rights transfer ordinance that was enacted last summer. Large annexations last spring prompted the water rights transfer. The city has also had litigation threats from the toilet retrofit and water rights transfer ordinances. Some developers are bringing water rights instead of retrofits because the water rights are less expensive than retrofitting. Water banks are also being proposed, and there are anecdotal reports that water rights have gone

up about 20% in the past year. Kyle noted that prices are variable depending on the situation.

Hoyt Pattison reported that the Ute Lake development at Logan was aired thoroughly in Clovis last week, and Hoyt is wondering about the basis for about the concerns about motor boats, etc., since the water would be treated. Hoyt stated that he is in favor of the project. He explained that the price of energy controls ground water irrigation, and water usage in Curry County has dropped because of the drop in the water table and the correspondingly higher cost of pumping. Hoyt commented that it is a matter of time before the whole region will need the water from Ute lake.

Wayne Cunningham noted that he read in the newspaper that Governor Richardson is planning to spend \$4M to purchase property and water rights in the Clovis area.

Elmer Salazar asked how the legislature was doing with the current water bills. Hoyt responded that there have been a lot of bills introduced, and the Water Trust Fund bills seem to have support. Most of those bills are asking for \$100M to go into the trust.

Elmer Lincoln reported that shortage sharing among the ten major water users in the San Juan basin have been agreed to and are being endorsed. The Bureau of Reclamation is facilitating the agreements. Even though 2005 ended up being a pretty good year, the value of having these agreements is clear. Water users will possibly develop multi-year agreements. Elmer also reported that Navajo Lake still has a good elevation, but the current snow pack is about 44% of average, and the predicted snow pack for April to June will be 66% of average. Elmer explained that in 2002, which was a drought year, snow pack at this time of year was at 50% of normal, so there is cause for concern.

Elmer commented that the San Juan stream adjudication has been very active, and there is a hearing scheduled for Jan 31.

Bill Hume commented that the low snow readings for San Juan drainage are still substantially better than the rest of the state. Bill added as an aside that there is legislation that seeks to get a slight change in wording that would extend funding eligibility to projects that are outside of New Mexico but would benefit the state.

Paul Paryski reported that he is still working to encourage the City of Santa Fe to pass ordinances on rooftop harvesting, permeable paving, and nontoxic asphalt. Paul reported that he has also been active with the Indigenous Waters Network and the Jemez y Sangre regional water planning council.

Jack Westman reported that the City of Albuquerque is progressing rapidly with the San Juan Chama project, and that pipeline is being laid all over the city to move the water. The city has been discussing the need to get people used to the taste of the surface water compared to aquifer water. Jack also reported that he spent an hour with Heather Wilson talking about the Navajo project, and gave her a summary of the issues based on information from the OSE. Jack commented that Rep. Wilson understands the implications for Albuquerque, but says that the issue has to go to the senior senator. Jack stated that Rep. Wilson commented that the Navajo and Aamodt settlements add up to a

lot of money. Kyle Harwood noted that the Aamodt numbers are still high, but are less expensive than the Arizona settlement. Kyle added that among the issues in the Aamodt settlement are that the federal government is taking the position that Taos water is available, while the state takes the position that Taos water is not available. Furthermore, the state position is that the federal government has to pay for the Indian portion of the water. The pueblo claim to water is so extensive that there is a need to bring in more water to ensure that there is sufficient supply for non-Indians.

Paul Paryski asked whether Nambe and Tesuque have the right to lease some of their water. Frank Chavez responded that he believed that if it was clear that they did, it would help the situation. Kyle Harwood commented that the leasability of Indian water rights is an important issue, but there are some very specific provisions in the Aamodt settlement that are not the same as general provisions.

Bill Hume reported that he attended the ISC meeting in Clovis to discuss the Ute Lake development. The ISC heard from people in the area about how desperate they are for any kind of economic activity. Bill commented that he thought the meeting helped to make a stronger link between Estevan Lopez and the technical people involved in the project. The developers want to build a golf course that would extend down into the ISC flowage easement, and are in a rush to put in the golf course and 800 boat slips. Access to the lake by the public is an important issue. The state will probably permit the golf course to start soon, but the boat slips and marina will have to wait for further review. Bill commented that the public seems to be well in favor of the development. Wayne added that there are 755 1-2 acre lots going in that are selling at \$300-400K per lot. The lake is approximately 4500 acres.

Bill also reported that there are negotiations underway on the Colorado compact having to do with consumptive use and sharing for Lake Powell and Lake Mead. How these negotiations are settled could have an impact on the hydrologic determination for the Navajo settlement.

John Leeper reported that the video on the Navajo Settlement is being circulated, but he has not seen it. The settlement is struggling and does not have much support from the federal administration. It is currently being redrafted. The most pressing difficulty is the hydrologic determination. New Mexico must come up with depletion schedule using a new methodology that will make it hard to show that there is enough water. The original method is seen as outdated, and the new method indicates that the state's depletion might be higher than previously thought. The congressional leadership does not want to introduce anything until that issue is resolved. There is some indication that New Mexico is nearing or even exceeding its compact share of 669,000 acre-feet.

### **Water Innovation Project Reviews**

Bill Hume provided an update on the Task Force reviews of projects funded through the water innovation fund. Governor Richardson has given his approval for the Task Force to conduct the reviews of project implementation, but the details are still being worked out. The general approach that is being considered is to provide Task Force members

with a list of projects and implementation reports. The projects will go through agency reviews, and some projects will be selected for presentations to the Task Force. The Task Force will review the projects and provide a report to Bill Hume. The objective will be to try to identify the projects and approaches that have been most innovated, and to develop recommendations about how the water innovation fund could be used in the future. To date, there has not been any systematic evaluation of these projects or whether this initiative is effective for promoting innovation in water technologies.

Jack Westman inquired about staff support for the effort. Elmer Salazar mentioned that in the past, some of the Task Force members have been involved in reviewing the project proposals, but this is not being done by an ad hoc group. Bill confirmed that the ad hoc group will probably continue to review the project proposals.

### **Paul Paryski's proposal for a Water Resources Policy Board**

Paul Paryski described his experiences with the UN working on governance issues and how to structure government agencies to solve problems. Paul stated that in New Mexico, management of water resources in the state is fractured. For example, the Task Force does not have anyone from the NMED at meetings. No single agency in New Mexico has responsibility for managing resources on a sustainable basis, different agencies have different responsibilities, and there is not enough collaboration and coordination. Paul explained that his idea is to create a state water resources policy board similar to policy boards that other states have. The function of the board would be to propose overall policies for the management of the natural resource base. Members of the board could be heads of different agencies, stakeholders, acequias, agricultural sector, etc., and should also include professional experts and a support staff. Paul explained that he got this idea from observing how the Blue Ribbon Task Force functions. Paul stated that he would appreciate feedback from Task Force, and is also talking to legislators to get feedback on whether his idea is worth carrying forward.

Frank Chaves commented that his initial thoughts were that adding another layer of bureaucracy needs careful consideration. Frank also mentioned that he had questions about how such a board would form, how would it continue, what its framework would be (would it work from the state water plan), and if there is a way to restructure an existing board rather than creating a new entity. Paul mentioned the Water Quality Control Commission as one possibility. Jack Westman commented that the Water Quality Control Commission has not functioned effectively and is not attended by the Cabinet secretaries.

Hoyt Pattison suggested that Paul check on whether the statement that New Mexico uses more water than it receives be checked for accuracy. Hoyt added that New Mexico state agencies already have an organization similar to what Paul is proposing. Hoyt stated his opinion that a cabinet-level position with responsibility for water would be the most we need, as the system we have is working well.

Frank commented that he was not in favor of the proposal, but the Task Force could get more engaged in issues related to focusing efforts and energy in a more coordinated form.

Elmer Lincoln added that Paul's motivation is correct, but creating another layer of government can be fraught with frustration.

### **OSE/ISC Update**

John D'Antonio reported that there have been numerous funding requests at the legislature. Some of the major funding initiatives have been part of a \$280M bill that Mimi Stewart put together. John stated his position that it was not appropriate for all of the water funding to go to the OSE, and that some should be put into other areas such as the Water Trust Fund, the Rio Grande Improvement Fund, etc.

John added that money that goes into the Water Trust Fund can not be bonded against because of arbitrage rules (governments were funding their overhead by lending money at a higher amount of interest than they were paying). Using just the interest generated from the Water Trust Fund, \$4M per year could be used to fund projects. John is working on getting a revenue generating fund to start bonding against. Another bill amendment would allow funding of projects out of state that would benefit New Mexico water users.

John summarized a list of bills that were introduced in the session:

HB 76 (\$350K) DEVELOP UTE LAKE MASTER PLAN	The ISC wants to make sure that source protection for water supply is met, but is in favor of the development.
HB 117 FORT SUMNER IRRIGATION DISTRICT DEBT PAYMENT	The Fort Sumner Irrigation District wants to get ownership of the facility, but it would still take act of congress for them to do what they want to do. The OSE is supporting the bill, but other irrigation districts are less supportive, saying that they paid their own debts.
HB 121 (\$280M ) STATEWIDE WATER PROJECTS	Changes that were made to redirect funding that was that originally to go to the OSE. The bill includes \$75M for Indian water rights settlements; \$30M for MRGCD (preferably to go to MRG income fund); \$70M for Ute pipeline (but thinking to leave it in the Water Project Fund rather than sending it to the Water Trust Fund); \$7M for the Gila (language cleanup so that money had to be spent for environmental studies but not project construction); \$4M for Pecos, \$44M for acequias and dams (Irrigation Works Construction Fund); and \$6M for La Plata conservancy district.
HB 131 (\$50K) ASSESS SALT BASIN WATER RESOURCE	OSE is expecting a substitute to come out at \$150K.

## DEVELOPMENT

HB 132 NO REVERTING OF  
WATER TRUST FUND  
MONEY

HB 134 (\$100M) WATER  
TRUST FUND

HB 136 (\$1M) STATE  
ENGINEER WATER  
MASTERS

1M for term positions for 2 years.

HB 139 (\$10M) SALT CEDAR  
REMOVAL &  
RIPARIAN  
RESTORATION

\$8M to soil and water conservation district, \$2M to energy and minerals.

HB 144 OIL & GAS  
PRODUCED WATER  
TAX CREDITS

John mentioned that he has some difficulty with this bill. The bill originated in the Pecos and has been amended somewhat, but contains indemnification language that John is not comfortable with.

HB 149 (\$1.4M) JEMEZ Y  
SANGRE WATER  
DISTRICT CLOUD  
SEEDING

The OSE supports the bill but considers the appropriation request to be too high.

HB 152 SUSTAINABLE  
DEVELOPMENT  
TESTING SITE ACT

The OSE had problems last year with this bill because it included exemptions that could have led to water harvesting.

HB 163 ALLOW CERTAIN  
WATER RIGHTS  
TRANSFERS

The Artesian Valley Conservancy District (AVCD) wants to be able to charge an assessment on water rights transferred out of district. John does not think it's germane for this session, and would not support it. He would support the AVCD's use of their own bylaws to achieve the same goal.

HB 183 WATER RIGHTS  
ADJUDICATIONS

Water rights adjudication money would be expended in 2 years, but \$10M for 2 years might be too much to spend. 5 years is more realistic.

HB 188 LAND, WILDLIFE &  
CLEAN ENERGY ACT

This legislation would set up a fund to use 10/19ths of the oil and gas money. It would also sets up a board, and bonding capacity to build clean energy types of projects. Some of the funding that would be generated might be able to be used for land management along the Pecos. The OSE is supporting it.

HB 243 (\$120K) UNM  
SUSTAINABILITY  
RESOURCE CENTER

HB 302	(\$500K) WATER CONSERVATION & RESOURCE RESTORATION	Water conservation and resource restoration funding would go to NMSU to provide technical assistance funding to match farm bill technical assistance
HB 308	NMFA WATER & WASTEWATER PROJECT GRANT FUND	
HB316	UNDERGROUND IRRIGATION TOOL GROSS RECEIPTS	This bill would make underground irrigation pipes included in the exemptions.
HB 351	UNM UTTON TRANSBOUNDARY CENTER OMBUDSMAN	OSE supports
HB 394	CIMARRON WATERSHED PROJECTS	
HB 398	STATE ENGINEER OFFICE IN NORTHEASTERN NM	
HB 403	ACEQUIA ASSOCIATION EMPLOYEE TORT LIABILITY	
HJR 6	WATER TRUST FUND, CA	This resolution is contingent on the \$100M passing and would make the Water Trust Fund part of the state constitution. It would be up to the legislature to fund it later. A constitutional fund is protected.
HJM 21	APPOINT WATER TRUST FUND TASK FORCE	Seeks a mechanism for self-funding for the fund.
HJM 23	IMPLEMENT FOREST & WATERSHED HEALTH PLAN	
HM 3	NATIVE AMERICAN WATER RIGHTS SETTLEMENT FUNDS	
SB 30	WATER CONSERVATION & RESOURCE RESTORATION	
SB 33	(\$550K) SOIL &	



WATER  
CONSERVATION  
DISTRICTS

- |        |   |   |
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| SB 61  | SCHOOL DISTRICT 40-<br>YEAR WATER PLANS                       | Might not be germane this session. The OSE believes that schools should be served by their local governments.   |
| SB 80  | (\$100M) WATER<br>RIGHTS<br>ADJUDICATIONS                     |   |
| SB 93  | (\$100M) WATER<br>TRUST FUND                                  |   |
| SB 131 | WATER RIGHTS<br>ADJUDICATIONS                                 |   |
| SB 191 | ACEQUIA TECHNICAL<br>ASSISTANCE                               |   |
| SB 194 | TRANSFER MONEY<br>TO WATER TRUST<br>FUND                      | Will be reworking the language, but will probably be put on hold.   |
| SB 224 | WATER PROJECT<br>FUND FOR ITS<br>ORIGINAL PURPOSES            |   |
| SB 271 | NMHU FORESTRY &<br>WATERSHED<br>RESTORATION                   |   |
| SB 297 | WATER RIGHTS<br>ADJUDICATIONS                                 |   |
| SB 326 | ACEQUIA<br>ASSOCIATION<br>EMPLOYEE TORT<br>LIABILITY          |   |
| SB 343 | AQUIFER MAPPING<br>AND MONITORING IN<br>TAOS COUNTY           |   |
| SB 377 | STATEWIDE WATER<br>PROJECTS                                   |   |
| SB 402 | (\$3M) RIO GRANDE &<br>COLORADO RIVER<br>MANAGEMENT<br>ISSUES | Provides extension of funding for lower Rio Grande litigation. There are significant issues in Colorado related to dual management of reservoirs in the Colorado basin. NM needs to be ready. |
| SJM 18 | EDUCATE ABOUT<br>IMPORTANCE OF<br>ACEQUIAS                    |   |

Estevan Lopez commented that if there is to be any appropriation for HB149 (JyS cloud seeding), scientific assessment would be required to determine whether cloud seeding is worth pursuing at a larger scale. Estevan added that it is difficult to see how any entity could benefit from any increase in yield. In addition, if New Mexico is in article 7, the state would not be able to keep the water. Hoyt commented that the Jemez y Sangre group are a different association than what he has been associated with, but there is ample information from other states that shows the yield on a scientific basis. Hoyt added that it might not apply to NM, but is worth looking at, and lack of specific data in NM should not be a hindrance to going forward with this program. Estevan noted that this is a demonstration project and should be properly assessed. Conci Bokum commented that when the Jemez y Sangre regional planning council did the regional water plan, most of the alternatives that were looked at did not close the gap between supply and demand. Rather, more water increased water for junior users. Estevan noted that Santa Fe is uniquely positioned to benefit from it. Estevan also commented to Hoyt that some people say the science is there, while others (e.g. NM Tech) are skeptical. Hoyt replied that NM Tech did cloud seeding studies in the mountains west of Socorro and it didn't work, but that is a different type of watershed and clouds. Estevan commented that the idea merits some funding and a thorough assessment. He added that while we continue to raise questions about how real the results are, on the Colorado river there is conversation among the basin states on how to augment flows, and cloud seeding is one of the options being considered.

### **Video Presentation: Acequia Culture**

Charlie Nylander from Los Alamos National Laboratory presented information about the Water Research Technical Assistance Office (WRTAO). The four goals of the WRTAO include:

1. Collaboration and partnerships

The WRTAO provides technical and administrative support for the Espanola Basin Regional Planning Issues Forum (EBRPIF), which is an intergovernmental body that formed approximately 18 months ago. Members listed in the current charter include the cities of Santa Fe and Espanola, Los Alamos, Rio Arriba and Santa Fe Counties, and the pueblos and tribes of San Ildefonso, Santa Clara, Okay Owingeh, Tesuque, Pojoaque, Nambe, Santo Domingo, Cochiti, and Picuris. In addition to the charter, the forum developed a set of protocols that look at tribal and local government relationships.

The EBRPIF meets monthly to discuss issues of regional concern, and is particularly focused on water. The existence of the EBRPIF has promoted trust and common understandings among the member entities. Senators Bingaman, Dominici and Representative Udall send staff to observe meetings. WRTAO efforts as a neutral party have helped these entities form collaborations and partnerships.

## 2. Educational outreach

WRTAO has produced a series of 7 films on groundwater and surface water. The newest films include a 2 part series on watersheds and a video on acequia culture. WRTAO has been distributing the videos to school systems, local governments, and non profits such as the Quivira Coalition, Earthworks Institute, the Santa Fe Watershed Association. These entities use the videos for educational purposes.

## 3. Support research

WRTAO has been trying to support the development of projects that would fill data gaps identified by the Espanola Basin Technical Advisory Group. WRTAO has also been assisting entities in the region with the development of project proposals and identification of funding opportunities.

## 4. Information clearinghouse

WRTAO provides information to the public as well as government agencies, and is developing a clearinghouse website to assist with locating water related information and data.

Charlie explained that the WRTAO is an extension of the Laboratory's outreach program, but is specifically focused on water. All of the staff have expertise in different aspects of water resources and planning. It is not known yet whether the new contractor will continue this effort.

Frank Chaves commented that there is a lot of discussion in New Mexico about the need to prioritize projects and decide what to pursue for funding, but there hasn't been any focus on getting the big federal money. The EBRPIF could serve as a model for this. One idea would be to use the New Mexico First process to try to get funding. Conci commented that that a forum such as the EBRPIF can be an implementer of the regional water plans.

Sarah Kotchian suggested it might be helpful if the Task Force sent a letter expressing appreciation for the support that WRTAO has provided to the Blue Ribbon Task Force.

Larry Blair asked Charlie is there is a council of governments that WRTAO works with. Charlie explained that the EBRPIF is very much like a council of governments, but they don't have a council of governments in that basin. Larry then asked if WRTAO could you work outside of the basin. Charlie replied that WRTAO has had requests from Taos County and the San Juan basin. WRTAO is being cautious about overextending given its limited staff.

Charlie then showed a new video the WRTAO has produced on acequia culture. He explained that his goal was to tell a factual story without undue sentimentality. He noted that there are many people moving here and buying irrigated land without understanding anything about the acequias. Charlie added that he tried to stay away from controversial topics and instead really focus on what acequias mean.

Frank commented that there are a lot of parallels between the acequia terminology and understanding and the tribal perception, which demonstrates an interconnection between the acequia culture and native culture.

Conci Bokum related a case near Zia pueblo in which somebody did a call on the river. The OSE organized a tour of the Hispanic communities. When the tour took a diversion to the pueblo and people saw that the fields were dry, they kicked out the lawyers and negotiated a shortage sharing agreement. Larry Blair commented that for the past two years, water users for Eagle Nest reservoir have kicked out the lawyers and sat down together to work out an agreement.

### **Planning for 2006**

Task Force members commented that involvement with the Navajo settlement has been a learning experience. Reflecting on the experience would help the Task Force to be able to plan ahead and understand how to be more effective.

Task Force members confirmed their interest in visiting the Middle Rio Grande Conservancy District in May.

The following information or support that is needed for Water Innovation Project Reviews was identified.

- information about the initial purpose and intent of the fund;
- staff work to decide which projects to look at;
- how does the Water Innovation Project Fund tie to the state water plan;
- the time frame and workload.

Other suggestions for 2006 included:

- Federal funding initiatives (New Mexico First report)
- Mutual Domesticity
- Gaps in water conservation, e.g. irrigation technology
- Water banking and water rights
- Effect of ESA on water management
- State water plan (ask Estevan and John to talk to us about what they think the process will be for updating the state water plan)

- Review and comment on domestic well proposed rules and regulations

Sarah Kotchian commented that the Task Force needs to focus on following through on activities from last year, e.g. the letter to NMSU. The Task Force could also invite NMSU scientists to present on their current irrigation and water conservation research.